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10/783,917	02/20/2004	Richard Carey	STNL 2656003	5206

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CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

EXAMINER	
GAMI, TEJAL	
ART UNIT	**PAPER NUMBER**
2121	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/783,917	CAREY, RICHARD	
	Examiner	Art Unit	
	TEJAL J. GAMI	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to an AMENDMENT entered February 29, 2008 for the patent application 10/783917.

Status of Claims

2. Claims 1-21 were rejected in the last Office Action dated October 30, 2007.

As a response to the October 30, 2007 office action, Applicant has Amended claims 1, 10-14, and 18; and Added claims 22-29.

Claims 1-29 are now pending in this office action.

Specification

3. The appendix will not be printed in a patent publication if the page numbers of the appendix are not renumbered so that they fall in between the specification and the claims.

Claim Objections

4. Examiner thanks Applicant for amending the claims in response to the objections of the previous office action. Those objections have been withdrawn.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 14-17, 28, and 29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 14-17, 28, and 29 constitute software modules devoid of any apparent hardware, and therefore are computer programs e.g., functional descriptive material. Since the computer programs are not embodied on an appropriate computer-readable storage medium, they cannot be afforded patent eligibility. The claims as written would reasonably be interpreted by one of ordinary skill in the art as software, per se. And therefore are non-statutory for this reason. Furthermore, it is not clear whether the computer program product is hardware or software; therefore they have been interpreted as software.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Crookshanks (U.S. Patent Number: 7,089,203).

As to independent claim 1, Crookshanks discloses an apparatus for interactively designing custom (computer-assisted construction bidding for design, construction and financing management of a construction project) (see Col. 1, Lines 19-40), decorative stonework (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024), comprising:

a plurality of data modules, wherein the plurality of data modules at least comprise an architectural pictures module at least having a plurality of architectural pictures (e.g., architectural plans) (see Col. 9, Lines 21-30), a units module (e.g., units of the plans) (see Col. 6, Lines 46-54), a parts module (e.g., part numbers) (see Col. 19, Line 46), and a profiles module (e.g., requirements profiles) (see Col. 27, Line 62), and a cross-sectional profiles module (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62);

a correlation module (e.g., cross correlation; correlated with fields), wherein the correlation is at least configured to map data from the plurality of data modules (see Col. 9, Line 16; and Col. 12, Line 19);

a transfer protocol server, wherein the transfer protocol server is at least coupled to a computer network (see Col. 28, Lines 13-15); and

an application module, wherein the application module (see Col. 9, Lines 21-30) is at least:

coupled to the transfer protocol server (see Col. 28, Lines 13-15);

coupled to the correlation module (e.g., cross correlation; correlated with fields) (see Col. 9, Line 16; and Col. 12, Line 19); and

configured to interactively design custom (computer-assisted construction bidding for design, construction and financing management of a construction project) (see Col. 1, Lines 19-40), decorative stonework (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024).

As to independent claim 10, Crookshanks discloses a method for interactively designing custom (computer-assisted construction bidding for design, construction and financing management of a construction project) (see Col. 1, Lines 19-40), decorative stonework (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024), comprising:

accessing an application over a computer network (see Col. 28, Lines 13-15);

selecting an architectural picture of a plurality of architectural pictures provided by the application (e.g., architectural plans) (see Col. 9, Lines 21-30);

at least mapping units (see Col. 6, Lines 50-54) and costs (e.g., cost estimation) (see Col. 1, Line 67) and cross-sectional profiles (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62) to the architectural picture (e.g., plan) (see Col. 2, Lines 2-7);

selecting at least one architectural feature (e.g., overlay) of the architectural picture (see Col. 5, Lines 5-12);

storing the at least one architectural feature (see Col. 5, Lines 5-12);

drawing a specification based one the at least one architectural feature (see Col. 28, Lines 52-53); and

estimating a cost of manufacturing the decorative (e.g., cost of construction) (see Col. 1, Line 49), custom stonework of the specification (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024).

As to independent claim 14, Crookshanks discloses a computer program product for interactively designing custom (computer-assisted construction bidding for design, construction and financing management of a construction project) (see Col. 1, Lines 19-40), decorative stonework (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024), the computer program product embodied on a computer-readable medium (see Col. 27, Lines 4-16), the computer program product (see Col. 27, Lines 4-16) comprising:

computer code for accessing an application over a computer network (see Col. 28, Lines 13-15);

computer code for selecting an architectural picture of a plurality of architectural pictures provided by the application (e.g., architectural plans) (see Col. 9, Lines 21-30);

computer code for at least mapping units (see Col. 6, Lines 50-54) and costs (e.g., cost estimation) (see Col. 1, Line 67) and cross-sectional profiles (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62) to the architectural picture (e.g., plan) (see Col. 2, Lines 2-7);

computer code for selecting at least one architectural feature (e.g., overlay) of the architectural picture (see Col. 5, Lines 5-12);

computer code for storing the at least one architectural feature (see Col. 5, Lines 5-12);

computer code for drawing a specification based on the at least one architectural feature (see Col. 28, Lines 52-53); and

computer code for estimating a cost of manufacturing the decorative (e.g., cost of construction) (see Col. 1, Line 49), custom stonework of the specification (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024).

As to independent claim 18, Crookshanks discloses a processor for interactively designing custom (computer-assisted construction bidding for design, construction and financing management of a construction project) (see Col. 1, Lines 19-40), decorative stonework (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024), the processor including a computer program (see Col. 26, Lines 55-64) comprising:

computer code for accessing an application over a computer network (see Col. 28, Lines 13-15);

computer code for selecting an architectural picture of a plurality of architectural pictures provided by the application (e.g., architectural plans) (see Col. 9, Lines 21-30);

computer code for at least mapping units (see Col. 6, Lines 50-54) and costs (e.g., cost estimation) (see Col. 1, Line 67) and cross-sectional profiles (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62) to the architectural picture (e.g., plan) (see Col. 2, Lines 2-7);

computer code for selecting at least one architectural feature (e.g., overlay) of the architectural picture (see Col. 5, Lines 5-12);

computer code for storing the at least one architectural feature (see Col. 5, Lines 5-12);

computer code for drawing a specification based one the at least one architectural feature (see Col. 28, Lines 52-53); and

computer code for estimating a cost of manufacturing the decorative (e.g., cost of construction) (see Col. 1, Line 49), custom stonework of the specification (e.g., stone floors; granite stone) (see Page 44, Category 023 and 024).

As to dependent claim 2, Crookshanks teaches the apparatus of claim 1, wherein the correlation unit further comprises at least mapping units onto architectural pictures (e.g., cross correlation; correlated with fields) (see Col. 9, Line 16; and Col. 12, Line 19).

As to dependent claim 3, Crookshanks teaches the apparatus of claim 1, wherein the correlation unit further comprises at least mapping parts onto architectural pictures (e.g., cross correlation; correlated with fields) (see Col. 9, Line 16; and Col. 12, Line 19).

As to dependent claim 4, Crookshanks teaches the apparatus of claim 1, wherein the plurality of data modules further comprises a costs module (e.g., cost estimation) (see Col. 1, Line 67).

As to dependent claim 5, Crookshanks teaches the apparatus of claim 4, wherein the correlation unit (e.g., cross correlation; correlated with fields) further comprises at least mapping costs onto architectural pictures (e.g., contract cost) (see Col. 9, Line 16; and Col. 12, Line 19).

As to dependent claim 6, Crookshanks teaches the apparatus of claim 5, wherein the application module further comprises at least having the ability to estimate costs of a user defined specification (e.g., cost estimation) (see Col. 1, Line 66 to Col. 2, Line 7).

As to dependent claim 7, Crookshanks teaches the apparatus of claim 1, wherein the plurality of data modules further comprises a Computer Aided Design (CAD) drawing module (see Col. 29, Line 65).

As to dependent claim 8, Crookshanks teaches the apparatus of claim 7, wherein the correlation unit further comprises at least mapping CAD drawings onto architectural pictures (see Col. 9, Lines 34-36).

As to dependent claim 9, Crookshanks teaches the apparatus of claim 8, wherein the application module further comprises at least having the ability to draw a user defined specification (see Col. 28, Lines 52-53).

As to dependent claim 11, Crookshanks teaches the method of claim 10, the method further comprises:

mapping a definition to the at least one architectural feature (see Col. 6, Lines 7-10); and

displaying the definition to a user (see Col. 6, Lines 7-10).

As to dependent claim 12, Crookshanks teaches the method of claim 10, wherein the method further comprises at least mapping at least one CAD drawing to the at least one architectural feature (see Col. 9, Lines 34-36).

As to dependent claim 13, Crookshanks teaches the method of claim 10, wherein the method further comprises:

presenting the specification and the costs to a user (e.g., cost estimation) (see Col. 1, Line 66 to Col. 2, Line 7);

determining if a bid is requested based on the specification and the costs (see Col. 1, Line 66 to Col. 2, Line 7); and

placing an order based on the bid (see Col. 28, Line 64-66).

As to dependent claim 15, Crookshanks teaches the computer program product of claim 14, wherein the computer program product further comprises:

computer code for mapping a definition to the at least one architectural feature (see Col. 6, Lines 7-10); and

computer code for displaying the definition to a user (see Col. 6, Lines 7-10).

As to dependent claim 16, Crookshanks teaches the computer program product of claim 14, wherein the computer program product further comprises computer code for at least mapping at least one CAD drawing to the at least one architectural feature (see Col. 9, Lines 34-36).

As to dependent claim 17, Crookshanks teaches the computer program product of claim 14, wherein the computer program product further comprises:

computer code for presenting the specification and the costs to a user (e.g., cost estimation) (see Col. 1, Line 66 to Col. 2, Line 7);

computer code for determining if a bid is requested based on the specification and the costs (e.g., cost estimation) (see Col. 1, Line 66 to Col. 2, Line 7); and

computer code for placing an order based on the bid (see Col. 28, Line 64-66).

As to dependent claim 19, Crookshanks teaches the computer code of claim 18, wherein the computer code further comprises:

computer code for mapping a definition to the at least one architectural feature (see Col. 6, Lines 7-10); and

computer code for displaying the definition to a user (see Col. 6, Lines 7-10).

As to dependent claim 20, Crookshanks teaches the computer code of claim 18, wherein the computer code further comprises computer code for at least mapping at least one CAD drawing to the at least one architectural feature (see Col. 9, Lines 34-36).

As to dependent claim 21, Crookshanks teaches the computer code of claim 18, wherein the computer code further comprises:

computer code for presenting the specification and the costs to a user (e.g., cost estimation) (see Col. 1, Line 66 to Col. 2, Line 7);

computer code for determining if a bid is requested based on the specification and the costs (e.g., cost estimation) (see Col. 1, Line 66 to Col. 2, Line 7); and

computer code for placing an order based on the bid (see Col. 28, Line 64-66).

As to dependent claim 22, Crookshanks teaches the computer program product of claim 18, wherein the computer code further comprises computer code for generating at least one CAD drawing (see Col. 29, Line 65) based on a user selection of at least one of the mapped cross sectional profiles (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62).

As to dependent claim 23, Crookshanks teaches the computer program product of claim 18, wherein the computer code further comprises:

computer code for dividing the at least one architectural feature into at least one unit and at least one part corresponding to the at least one unit (e.g., units of the plans) (see Col. 6, Lines 46-54); and

computer code for creating a CAD drawing showing the at least one part marked with the corresponding unit name the at least one part name (e.g., cross correlation; correlated with fields) (see Col. 9, Line 16; and Col. 12, Line 19).

As to dependent claim 24, Crookshanks teaches the apparatus of claim 9, wherein the application module further comprises at least having the ability to generate at least one CAD drawing (see Col. 29, Line 65) based on a user selection of at least one of the mapped cross sectional profiles (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62).

As to dependent claim 25, Crookshanks teaches the apparatus of claim 9, wherein the application module is further configured to at least:

divide at least one of the plurality of architectural pictures into at least one unit and at least one part corresponding to the at least one unit (e.g., units of the plans) (see Col. 6, Lines 46-54); and

create a CAD drawing showing the at least one part marked with the corresponding unit name the at least one part name (e.g., cross correlation; correlated with fields) (see Col. 9, Line 16; and Col. 12, Line 19).

As to dependent claim 26, Crookshanks teaches the method of Claim 10, wherein the method further comprises generating at least one CAD drawing (see Col. 29, Line 65) based on a user selection of at least one of the mapped cross sectional profiles (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62).

As to dependent claim 27, Crookshanks teaches the method of Claim 10, wherein the method further comprises:

dividing the at least one architectural feature into at least one unit and at least one part corresponding to the at least one unit (e.g., units of the plans) (see Col. 6, Lines 46-54); and

creating a CAD drawing showing the at least one part marked with the corresponding unit name the at least one part name (e.g., cross correlation; correlated with fields) (see Col. 9, Line 16; and Col. 12, Line 19).

As to dependent claim 28, Crookshanks teaches the computer program product of Claim 14, wherein the computer program product further comprises computer code for generating at least one CAD drawing (see Col. 29, Line 65) based on a user selection of at least one of the mapped cross sectional profiles (e.g., grid system in 3-dimensional coordinates) (see Col. 6, Lines 55-62).

As to dependent claim 29, Crookshanks teaches the computer program product of Claim 14, wherein the computer program product further comprises:

computer code for dividing the at least one architectural feature into at least one unit and at least one part corresponding to the at least one unit (e.g., units of the plans) (see Col. 6, Lines 46-54); and

computer code for creating a CAD drawing showing the at least one part marked with the corresponding unit name the at least one part name (e.g., cross correlation; correlated with fields) (see Col. 9, Line 16; and Col. 12, Line 19).

Response to Arguments

9. Applicant's amendment and arguments filed February 29, 2008 have been fully considered. The amendment does not overcome the original art rejection and the arguments are not persuasive. The following are the Examiner's observations in regard thereto.

Applicant Argues:

Crookshanks does not suggest, teach, or disclose "cross-sectional profiles."

Examiner Responds:

Examiner is not persuaded. See office action above for prior art anticipation of the claims as written.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

M2 "Metric Design Guide" General Services Administration, Design and Construction Division, Region 3 Philadelphia, Third Edition, October 1993.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejal J. Gami whose telephone number is (571) 270-1035. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Albert DeCady/
Supervisory Patent Examiner
Tech Center 2100

/TJG/